



# HOUSE OF LORDS

Unrevised transcript of evidence taken before  
**The Select Committee on the Constitution**  
Inquiry on  
**CONSTITUTIONAL REFORM PROCESS**

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*Questions 133 - 175*

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10.45 am

Witnesses: Professor Graham Smith and Professor Stephen Coleman

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Members present

Baroness Jay of Paddington (Chairman)  
Lord Crickhowell  
Lord Hart of Chilton  
Lord Norton of Louth  
Lord Pannick  
Lord Powell of Bayswater  
Lord Rennard  
Lord Renton of Mount Harry  
Lord Rodgers of Quarry Bank  
Lord Shaw of Northstead

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**Examination of Witnesses**

*Witnesses:* **Professor Graham Smith**, [Professor of Politics, School of Social Sciences, University of Southampton], and **Professor Stephen Coleman**, [Professor of Political Communication, University of Leeds].

**Q133 The Chairman:** Good morning, Professor Coleman and Professor Smith. Thank you very much for coming this morning and for your attendance at this committee. We have had circulated to us, Professor Smith, the paper—I know that it is now some years old—that you did for the Power commission. I know that everyone will have read that with interest, but we have not got a contemporary statement of what either of you would like to emphasise to the committee. It is not obligatory, but if either of you would like to make a short opening statement, that would be welcome. Professor Smith, do you want to do that or are you happy to stand by the paper?

**Professor Graham Smith:** I am happy to take questions as they come, to be honest.

**Professor Stephen Coleman:** So am I.

**Q134 The Chairman:** Fine. Thank you very much. Let me just give you a short background to where we are in our inquiry. This has arisen because of the concern which the Committee has expressed in relation to several individual bills which have come before

the Committee both under this Government and under the previous Government on constitutional change, and which we have criticised because of the process by which they have been both drawn up and considered by Parliament. We felt it was appropriate at this stage to try to look more theoretically, if we can, at the process of constitutional change and how it can be improved or at least changed in various different ways. That involves, obviously, looking both at the internal workings of government and Parliament but also, very importantly, at the public and the electorate's involvement in these issues and how they can be integrated into the creation of bills for parliamentary change or in the development of policy ideas. We have had several very interesting sessions with both academics and people who have been in politics, practising these matters, on the theory of constitutional change and we are now at the point where we are looking to discuss some of the practical ways in which we could make progress on this for the purposes of our report. You may find us being slightly mundane about some of the issues we want to discuss and very practical about them because we want to have some examples and a definite idea about the way that change can be developed. We need to start with a very general question, which is: in the representative democratic parliamentary system that we have, how and why do you think that involvement of the general electorate on constitutional issues is useful or, indeed, valuable? First, could you announce yourself?

**Professor Stephen Coleman:** I am Stephen Coleman. I am Professor of Political Communication at the University of Leeds.

I think that the calls for greater degrees of public engagement respond to a perceived misalignment between the public demands of the political process and the capacity of institutions to be sensitive and to respond to such demand. The value of public engagement probably lies in three main areas. The first is, if you will, a normative requirement that those who are affected by any kind of change in the political process have their interests and,

indeed, their perspectives taken into account when those changes are being considered. Secondly, there is a sensitivity to what I would call the quality of tacit knowledge, that is to say, the kind of knowledge that is not always coherent and articulate but emerges out of various kinds of public discussion. Thirdly, I would say that the value of public engagement rests upon the capacity for a movement from position stating to preference shifting them, that is to say, a movement in public opinion that is most likely to occur when people are taken seriously in expressing their views in a timely fashion.

**Professor Graham Smith:** I am Professor Graham Smith, Professor of Politics at the University of Southampton. A lot depends upon what you mean by public engagement because, from the questions you have given us, it could be anything from providing people with information about the constitution and the changes being proposed through to consultation exercises, or right the way through to direct control by citizens. It depends on what you are talking about and therefore the value of those different things.

**Q135 The Chairman:** Which would you feel was the most useful and possibly relevant?

**Professor Graham Smith:** I am really sorry but it depends on what you are trying to do. If you are trying to change the constitution, then engaging citizens and involving them in a very strong sense is extremely important because you are changing the division of power between the ruled and the rulers. Leaving that just to politicians—who, I am afraid to say, we know have their own self-interests—is problematic given that the people who legitimate the system are the citizens themselves. If you are going to change the balance of power in any way, they have a right to be involved in that process.

**Q136 The Chairman:** Would you, for example, consider the referendum on the voting system as changing the balance of power?

**Professor Graham Smith:** I would, because it changes the way in which we select our representatives.

**Q137 Lord Rodgers of Quarry Bank:** Until the last 10 years, I had not known what public engagement meant and in a sense I am still slightly sceptical about the language. We are, as you know—this is the reason for our inquiry—inquiring into a great number of changes in legislation and constitutional changes. We have seen your 57 varieties and there have been references to New Zealand and British Columbia, but have you examples of public engagement other than the usual one of parliamentary referendums? Had you advised us, say, two years ago, in what way should the Government of the day have made changes? Would it have taken much longer or have been more acute? Would it have resulted in better government at the end?

**Professor Graham Smith:** That is a huge question. Given that we have the referendum decision tomorrow, perhaps we might think about just that one. It is widely recognised that the electoral system that we are going to vote on tomorrow is not the first preference of most people in this Parliament or in the country. It is a bizarre situation where we are voting on something that is not the first preference of most people. The process by which the decision was made that that would go forward was problematic to the public, and of course it did not involve the public. It does a great disservice to politics when that kind of major change is pushed forward as a governing compromise rather than as a really thoughtful process. That process, I would suggest, should involve citizens. The kind of thing that they tried to do in British Columbia is a really interesting sample of taking citizen engagement seriously in that process.

**Q138 Lord Renton of Mount Harry:** Could you remind us what exactly they did in British Columbia?

**Professor Graham Smith:** In British Columbia, there was an agreement that there was a problem with the electoral system across all political parties. Strangely, as you will probably recognise, all the political parties had their own view about what the change should be.

Given the enlightened leadership of the Premier at the time, he realised that this decision had to be taken outside the realm of politicians, who had their own partisan interests in different systems. They came up with the idea of a randomly selected assembly of citizens of 160—two from each voting district—who met for 11 months and discussed electoral reform. They spent a period of time being educated about different electoral systems. They then went around the country taking evidence from anyone who was interested in giving evidence. They then had a process of deliberation in which they judged different electoral systems against each other, and at the end they submitted a proposal that they should move to STV. The Government had said that if that assembly had decided to suggest a change, that would be put to a binding referendum of the people. That referendum was lost by 2.2 per cent. It has a very high threshold of 60 per cent. If you like, I can go into a lot of detail as to why I think it failed. One reason was that they put a lot of money into the assembly and almost nothing into publicising it, so a lot of people who voted did not even know that the assembly existed. That was a basic bit of poor design, but it was a very interesting process whereby citizens were involved in setting the agenda for what the electoral system should be.

**Q139 Lord Renton of Mount Harry:** So in fact they have gone on with first past the post?

**Professor Graham Smith:** They have now because they lost the referendum.

**Q140 Lord Rodgers of Quarry Bank:** I am still rather lost, perhaps because I ask too many questions at the same time. I am, again, trying to relate to the legislation programme with which we are dealing now. Prior to this programme, what would you have recommended in advance? For example, is the idea that the present referendum by itself was complete and that there was no need to have public engagement ahead of it, or was the referendum itself the only unnecessary public engagement? Is, for example, a smaller House

of Commons a constitutional matter, and would you have fora around the country meeting to discuss the matter, perhaps year after year before reaching a conclusion?

**Professor Stephen Coleman:** It seems to me that any attempt to have a public vote on an issue without there being a process of deliberation surrounding it does not do full justice to the democratic process. The question then is when that deliberative process needs to take place. It seems to me that it needs to take place both before as an agenda-setting process and during the voting. During the voting, of course, the process can be only indicative, because one is looking in a sense at a microcosmic public—what the public might think were they fully informed about the issues. In the end, voting has to be down to what people do in the ballot box on the day of the election. Before the voting, it seems to me that there is an agenda-setting role to be played—I think this is the one that Professor Smith was referring to and the one that they attempted to develop in British Columbia. It is based, I think, on a model that was invented by Professor Fishkin from the University of Texas, which has been trialled on a number of occasions and is called a deliberative poll.

**Q141 The Chairman:** A deliberative poll?

**Professor Stephen Coleman:** Yes. You take a group of people, 150 of them or so. He normally does this over the course of two or three days. You meet on the first day and carry out a survey, asking: what do you think about this particular issue? Then you have a period in which they are exposed to a series of different points of view. They are informed as much as one can hope to inform a citizen about a voting issue. They then discuss this among themselves; they engage in what we as political scientists might call trade-offs, compromises and searches for consensus. Then at the end there is a second survey. What Fishkin has found in all his deliberative polls is that the second survey always finds that there is a different point of view from the one that was in the first survey. When people have discussed something, their preferences shift. Not surprisingly, the more informed they are,

the more likely they are to compromise, the more likely they are to be sophisticated and the less likely they are to be inconsistent in their preferences. It seems to me that that is a good thing. In the other part of the voting process, voting itself, there is a deliberative part and a plebiscitary part. In British Columbia they tried to introduce that deliberative part, although in fact in a rather unsatisfactory way in terms of publicising it.

**Q142 The Chairman:** Professor Smith, do you want to add anything on the point of Lord Rodgers's question?

**Professor Graham Smith:** There is clearly a problem with many referendums with regard to public knowledge and public understanding of the issues. We see that at the moment with AV—how many people who go to vote will really understand the nature of the electoral system? One of the problems is trying to find a trusted information source. We only have to look at both sides of the campaign to see how they are often distorting the manner in which different electoral systems work, for electoral gain—trying to win the election. One of the aspects of something like the BCCA, the British Columbia Citizens' Assembly, is that it was a different type of information source, with ordinary lay citizens who had been educated about the issue and come to a judgment. That is a very different source of information, knowledge and understanding from the normal partisan participants in a political process.

**Q143 Lord Hart of Chilton:** Our problem in looking at the constitutional bills that have come before us this session has been that in each case there was no attempt at consensus-building, no consultation and no pre-legislative scrutiny. I rather gather from what you are saying that it is axiomatic that before any constitutional change—and let us assume that we can define “constitutional change”, because that has been a bit of a problem for us—you should not proceed with such change unless you have involved the public in some form of consultation and engagement, and the bag of liquorice allsorts provided shows a huge variety



of different ways of doing it. Am I right in understanding you to say that no government should proceed with constitutional change unless they have gone through that process—

**The Chairman:** A process.

**Q144 Lord Hart of Chilton:** Yes—through a process of public engagement? When we are trying to work out a programme of suggestions for how things could be made better, we are always met by a new government who say that they have these ideas—in these cases there were attempts to reconnect with the public, so it is said—and who want to get on with their programme of change. Your suggestion would inevitably involve some delay, would it not?

**Professor Stephen Coleman:** I think that these are axiomatic and, in a sense, constitutional principles about how one goes about changing the constitution. Obviously a different mix is needed depending on different legislation and its magnitude, but pre-legislative scrutiny at the parliamentary level and public information and deliberation at the public level are both basic requirements for any form of significant constitutional change.

**Q145 The Chairman:** You use the word deliberation, and I noticed in Professor Smith's paper as well as in the contributions that you raised this morning that you draw a distinction between consultation in what one might call the conventional sense and deliberation. Are you saying, in response to Lord Hart, that it is axiomatic that public deliberation should be involved?

**Professor Stephen Coleman:** I think that two problems should be addressed in relation to consultation. First, so much consultation is nominal, or one might even say "pseudo-consultation". That is to say, the time and resources devoted to it do not really constitute consultation. The second problem is political. Consultation inevitably draws in interest groups that are already known to have a view. Public engagement brings in people who

might have no clear views or weakly held views at the beginning of the deliberative process but by the end that might be different.

**Professor Graham Smith:** You might be using a distinction from the *Democratic Innovations* pamphlet that you have.

**Q146 The Chairman:** Yes, I think I am, but you have reinforced it in what you have said.

**Professor Graham Smith:** One of the things that has been very interesting in public participation over the past decade or so is this emphasis on trying to create designs that are inclusive, where they try to create an environment within which people engage in reasoning, considered judgment, et cetera. The reason why this interest in deliberative polls, citizens' juries and citizens' assemblies emerged was because of the dissatisfaction with existing consultation, which without meaning any disrespect involved the usual suspects and the usual partisan interests. It is an attempt to design different ways of engagement.

**Q147 Lord Powell of Bayswater:** I was going to follow on from the point about the question of public appetite to be engaged, which we will probably test tomorrow. You make the point very validly that the usual suspects come forward on almost any issue, including on constitutional change. How do you get beyond them if you have a fairly apathetic public? I note the various very interesting ideas on selecting groups from right across society, and so on. Those of us who have been on BBC television panel discussions would doubt that that ever really worked. We are always told that there is going to be an exact balance in the audience, but it never quite sounds like that when you get there. How do you overcome that problem and avoid running into government by interest groups and lobbyists and really engage the public if they are not showing a wild enthusiasm to give their views? Is there any way short of a referendum, when they have to either take it or leave it? They either do what they have to do and vote or they do not.

**Professor Graham Smith:** One of the problems with the referendum of course is that we know that there is unequal participation across social groups with referendums, as there are with elections. In a sense, a referendum result is always slightly skewed in that way anyway. I am sure that it will be the same tomorrow as it has been in previous referendums. That is why people who have been interested in deliberative approaches have been extremely interested in forms of random selection. What they have found, strangely enough, is that when people are invited to come and do something like a deliberative poll, a citizens' jury or even a citizens' assembly, they take that role seriously. It is actually the power of the invite that is motivating, because you are being asked to do something special and distinctive. You are asked to play a role as a citizen, if you like. You never get pure random selection; those who take up the invitation are always slightly more politically interested. But they are much more representative of the general population than typical interest groups. So it is a question of design and effort and of cost as well. To get a representative sample is not an easy thing to do, but it is worth it to get away from the partisan splits that we are used to.

**Q148 Lord Powell of Bayswater:** My unscientific impression is that it is easier to get that sort of thing in the United States where the appetite for engagement seems rather greater than it is in the UK or in some European countries.

**Professor Graham Smith:** I disagree, because a number of these events have been held in the UK. The same thing stands. People are asked to do something out of the ordinary and they often rise to that challenge. The interesting thing about the assembly is that, for 11 months, every second or third weekend everybody had to go to Vancouver. Only one person dropped out and that was because of family circumstances. Strangely enough, people tend to enjoy this, but we have lots of survey evidence that they were not happy about how their views were taken by parliamentarians or local councillors. They saw a disconnect

between what they had done and the decision that was made. That is really crucial. Why engage people if you are not going to listen to them?

**Professor Stephen Coleman:** I think we should be careful about making any assumption about public apathy. It is rather like talking about public motivation to engage in sport in an area where all the playing fields have been taken away. If you do not have the infrastructure, the muscles of participation become weak. That seems to have happened around our polity to a great extent. That is not to say that, in places where things are built around this, one cannot have different results.

**Q149 The Chairman:** I was going to ask a quick factual question. I will come back to you, Lord Powell. Professor Smith, you referred in your earlier paper to the UK Government's 5,000-strong people's panel, which ran from 1998 for four years and then disappeared. Have you discovered further what the background to that disappearance was?

**Professor Graham Smith:** They were just not interested in it. The Government lost interest.

**The Chairman:** The Government? In a sense that reinforces the point that Professor Coleman made that there was an institutional framework but it lost its muscles.

**Professor Graham Smith :** As I understand it, that panel was a standing committee that occasionally had its opinions taken. It was given information so was a little more informed than your regular opinion poll.

**The Chairman:** There were 5,000 people, which is quite large.

**Professor Graham Smith :** A lot of local authorities do this. They have what they call standing panels.

**Professor Stephen Coleman :** There is, if I may say so, a basic scientific problem with any long-standing panel. The effect of being on a long-standing panel is that you reflect on the

fact that you are part of the panel. You become more informed and are therefore no longer typical of other people.

**Q150 Lord Powell of Bayswater:** I wondered whether Professor Coleman thought that voting turnout figures in the UK generally supported the contention that people had a greater desire to be engaged than is sometimes assumed.

**Professor Stephen Coleman:** Only in so far as I think there is a correlation between the extent to which the local campaign is vigorous and people get involved. That would suggest that the kind of specific environment around voting determines its outcome.

**Q151 Lord Crickhowell:** I am trying to work out exactly where you think the process should begin. We have heard about the right to be involved and the general setting of roles. Lord Hart raised the point that clearly it ought to begin before the end, and at any rate the end should not proceed unless you have involved the public. Does the right to be involved mean that you seek the views of the public to initiate the move to constitutional change? Is not the reality that it will not be initiated until a government think that it is important for political or other reasons? As the Deputy Prime Minister often argues, we have all been considering it for centuries, or at least a very long time, and therefore we ought to get on with it. I am not clear whether you think that we should go down the road of constitutional change only if demand arises for it because people have been involved—and if it does not, it should be left alone. The whole process seems to get under way only once the executive have decided that they wish to move. Then it is probably quite important to consult about the detail and avoid the nonsense where we vote on a form of electoral reform that nobody wants. Can you elaborate on where you want the public to be involved? Is it to initiate change or merely to try to make sure that, once the government have decided they are going to go for change, it is less bad change than it otherwise might be?

**Professor Graham Smith:** I do not see us evolving into a polity any time soon where we have an initiative system, which is obviously what you have in places such as Switzerland and California, where you can get true agenda-setting from the public. I would suggest that those initiatives tend to be dominated by partisan interests because they can mobilise people, but that is another debate. Having talked to the Constitution Committee about referendums, I do not think that that sort of change is on the cards. What you said is interesting. Constitutional change tends to happen when members of the political elite think that there is something wrong with the current system. A lot of constitutional reform will continue to come from that direction, but not necessarily. Take the electoral system as an example. If there is recognition that there is a problem with our electoral system, that still leaves open the question as to what the electoral system should be and whether it should be changed. We might still have the least worst electoral system. There is a difference between saying that something needs to be changed, as in we think there is a problem with the electoral system, and then saying what the electoral system should be to replace it. There is a big gap in there of agenda setting, which I think we are suggesting.

Certain things come out of popular mood. I suggest, for example, that there was a mood for a referendum on devolution within Scotland et cetera that was reflected through the parties. It is not all top-down; some of it is bottom-up. It is not as simple as just saying that there are politicians and there are people and that they have independent views. They reflect each other. Sorry, that is a complicated answer—but the recognition between political leaders and parliamentarians that something needs to be dealt with in the constitution does not necessarily mean that you cannot get the public involved in what that change should be, including educating the public and involving them in decisions as to future direction.

**Professor Stephen Coleman:** I think there is a principle here, which is that the initiation of legislation should come from the executive. There may be exceptions at a very local level of

governance whereby some other form of initiative can be considered, but I do not think that that is what we are considering here. The sensitivity required for that process of initiation is the kind that Professor Smith has just described—the importance of political parties, recognition of what the public might or might not be thinking, and so on—but in the end, it has to come from the executive. It seems that the discussion around public engagement is not about the right to initiate constitutional legislation; it is about the right for that legislation to be fully accountable to those who are affected by it.

**Q152 Lord Crickhowell:** That is a very useful answer, if I might say so. Politics leads a party or parties to initiate the whole process, and this is where you bring in the kind of issues and methods that you are discussing.

**Professor Graham Smith:** For example—and we have already mentioned this—I think that the problem with the AV process was that there was no process by which we decided which electoral system should potentially replace first past the post. It was a decision on “AV or not AV”. That was the problem. There was no process of weighing the pros and cons of different electoral systems. It was a political deal.

**Q153 Lord Crickhowell:** Worse than that—and you may often have this situation—you have a Government formed of two parties, one of which believes that this change is absolutely essential and the other that believes it is a great mistake, has to go along with some sort of process, but does not want the change at all.

**Professor Graham Smith:** I do not know why I would have been in the negotiations, but if I had been, one thing that would have been interesting to say would have been, “We agree that there should be a citizens’ assembly to look at the issue”. Rather than the parties saying, “You want PR; we want to keep it as it is; let’s go for AV”, why was it not suggested, “We will have a citizens’ assembly, such as that held in British Columbia, that would bring forward a suggestion”?

**Professor Stephen Coleman:** It does seem to me that there are some elements of disentanglement that we simply cannot address here or do anything about—the combination of political factors, contingent political factors, and normative constitutional factors. In an ideal world, citizens would be high-minded and would address constitutional factors. For all the future reality that we can envisage, political entanglements are going to obscure some of these decisions.

**The Chairman:** I have got Lord Norton, Lord Pannick, Lord Renton and Lord Rennard in that order. I hope that makes the conversation consistent.

**Q154 Lord Norton of Louth:** Professor Coleman, you have touched on where you want the public involved, and I want to look at something you alluded to, which is how you want the public involved. The government initiate, but how are the public then involved? Is there a role for new technology? In the past, Professor Coleman, you have drawn attention to Parliament being ahead of the game relative to others in things such as online consultation, but I think that both of you take the view that new technology has not achieved what its perhaps optimistic proponents wanted. Is there a role there? Can it make a significant change, perhaps in the context that you were touching on in pre-legislative scrutiny?

**Professor Stephen Coleman:** The internet is the most promising space for this kind of deliberative discussion. It is not the only one, and I am very worried about it being seen as an either/or thing. You are quite right in saying that almost everybody in the world, apart from Members of this Parliament, realise that the British Parliament is ahead of the rest of the world in its initiation of online consultation. However, how do we make it effective? There are a number of valuable principles to think about. The first is building in designs for deliberation. We are now 10 years on from those early experiments in the British Parliament, and we know a lot more about how to deliberate and how long these sorts of



things should last. There are a number of practical lessons that need to be taken into account, such as what sort of moderation and how many people there should be. Are people coming in anonymously or are they giving their names? Should there be a certain number of times that people can come into the discussion? As was suggested, these are fairly mundane practical issues, but they are very important in getting deliberation right.

The second, as Professor Smith recognised, is the importance of providing balanced information that everybody can trust—basic first-order information that is trustworthy enough to set the debate on a foundation. The third is the importance of multidimensional talk—the kind of talk that people engage in when they think they are talking about politics, but also when they are talking about their neighbourhoods or their families, often on social networking sites. It is a question of bringing some of those existing conversations into the deliberative process, of reaching out and finding ways of doing it.

The next principle is about creating what is known as argument mapping and visualisation. It is impossible to have tens or hundreds of thousands of people having a mass conversation about an important issue and expect everybody to read everything. One of the things that is needed—fortunately there has been some very interesting and important information science work on this over the past 10 years—are ways of structuring conversations so that they look rather like a weather map and you can say, “Hang on, this is what 16 to 25 year-olds seem to be thinking at the moment in the conversation. This is what the women are thinking as opposed to the men”. One can start to visualise the picture in a really quite exciting way.

All those things are far ahead of anything that the public opinion industry has developed or been interested in. It is interested in rather crude numbers. It is far ahead of what most deliberation has done, even at a parliamentary or government level, because the resources

have not been put into it, but with imagination one could make all this work very creatively, and I think that that is the space in which it should be happening.

**Q155 The Chairman:** That problem comes back to the one which I am sure Lord Norton wants to follow up with you—who owns this process?

**Professor Stephen Coleman:** I think that Parliament should own this process. I do not think that this should be a government-initiated project. Governments are party entities; Parliament has more trust. It has the institutional role to encourage the kind of deliberation that goes on within it, perhaps in a rather weaker form, beyond it. I have always believed that one of the great institutional roles for the British Parliament is to be an encourager of public deliberation beyond its walls.

**Professor Graham Smith:** I just want to say—certainly this is not what Professor Coleman is saying—that I do not think that the internet and online engagement is a panacea; I do not think that it somehow gets us out of the problems that we have in ensuring that we have a representative group of people and that it is not dominated by partisan interests, et cetera. This can be quite difficult, particularly when you are talking about anonymity. Just as there are offline design issues, there are online design issues, which Professor Coleman has suggested. On a personal level, from the bits of work I have done on this, I think there is very often a difference between online and face-to-face deliberation. One of the differences is the way in which, online, it is quite easy to escape informing yourself. If you have a deliberative event face to face, you can walk out of the room or you can go to sleep; clearly people do go to sleep. But you are getting the same information as everybody else—you know you are; everyone is sitting there. Online, that is a design question, which is difficult to deal with but not impossible.

**Q156 Lord Norton of Louth:** Do you distinguish between the quantitative and the qualitative—whether it is just assessing the weight of opinion as opposed to having some

input by people who have useful opinions that can actually inform parliamentary debates? I am wondering whether that might be the value of it, particularly in the context of pre-legislative scrutiny.

**Professor Stephen Coleman:** We ran a consultation for the Public Administration Select Committee when I worked for the Hansard Society in which we had an expert group and a public group. It seems to me that one of the things that we should get away from when we talk about public deliberation is a notion of an amorphous public that is everyone, because there will always be some people in the public who have no interest whatsoever. There will always be some people in the public who are actually very expert indeed but who nobody has noticed, and there will be lots of others who will shift their positions as time goes on. Creating different places within the online sphere for different people to do different things makes great sense to me.

**Q157 Lord Norton of Louth:** One final point. You were saying, Professor Coleman, that you saw a role particularly for Parliament in engaging in this consultation, but presumably the government could do it as well—they consult, but there is a more open process with Parliament and pre-legislative scrutiny.

**Professor Stephen Coleman:** The government can do it also, but I do not think that they can do it as well. The great problem about anything that governments have done—I speak about this Government and the previous Government—is that they do not have the full trust of people. Furthermore, there is so much hostility towards them that a great deal of the resource put into them has to be spent on security and stopping people from attacking them.

**The Chairman:** I know, Lord Renton, that you wanted to ask about the new technology.

**Q158 Lord Renton of Mount Harry:** I think that it has largely been covered, but perhaps I may add one point. You talk briefly about the importance of the internet. Do you

see it following on that, at the end of the day, people will be able to vote via the internet, and would this help to increase the number of people who take part and vote? Do you see great difficulties in that, or do you think that it is likely to happen?

**Professor Stephen Coleman:** I should declare an interest because I chaired the independent commission that was set up by the Electoral Reform Society to look into this. My view, and that of the commission, is that it would not affect turnout.

**Q159 Lord Renton of Mount Harry:** It would affect it?

**Professor Stephen Coleman:** It would not. I do not think there is any evidence that lower turnout is a result of the inconvenience of having to walk to a polling station; I think the evidence is that people do not vote for a range of other, much more important reasons. So although I think that within the next couple of decades we, and most democracies, will move towards an online voting system—or at least towards that being an option in elections—I certainly do not believe that that in itself will make any difference.

**Lord Renton of Mount Harry:** I wholly disagree with you about the inconvenience of walking to a polling station not being something that keeps a lot of people away. I took part in six or seven general elections. My first one was in Sheffield and I was against a very large Labour majority—I was not going to win. I was very surprised to find that a lot of people were bringing bottles of beer into the tent, or wherever we were, and I said to my agent, “Why is that?”. She said, “Very likely they’ll whizz the beer up at you on the platform”. I was horrified. She said, “No, no no—that helps. It makes it much more interesting”. And I think that that is true. I take a different view from you on that.

**Professor Graham Smith:** If I remember rightly, the Labour Government tried a whole series of experiments, like voting in supermarkets and various things such as using text phones, but none of them had any effect whatever.

**Q160 Lord Renton of Mount Harry:** But the internet would be so easy, would it not?

**Professor Graham Smith:** I tend to agree with Professor Coleman that there are other reasons why people are not voting. Ease may be a small factor but it is not the major factor. Disinterest and disengagement is the major factor.

**Q161 Lord Pannick:** Professor Smith mentioned the question of education. I wonder to what extent each of you thinks that questions of public engagement—how prevalent it is, what we should do about it—are connected to the degree of public understanding that there is about political issues in this country. I am interested in whether there is any way of measuring whether public understanding is increasing or has decreased over the years, and I am interested in whether you think that government in this area has a responsibility to do more to educate people—obviously, the schools—about the political system.

**Professor Stephen Coleman:** My answer is yes and yes. There is an intimate relationship between levels of education and participation, and government should do more. That is why I believe that the introduction of the citizenship curriculum was a very valuable addition to our schools. One of the most important levelling points for any kind of knowledge gain is going to be in school. Once people have left school they are much more vulnerable to all the other socioeconomic factors that determine their chances of acquiring knowledge. It is a very important age group to be addressing, particularly in terms of fundamental constitutional principles, although not necessarily in terms of the precise detail of legislation. It is certainly important in terms of the principles of fairness around the foundations of government.

**Professor Graham Smith:** One of the key elements of the deliberative technique that we have been mentioning is always a process of education of the people involved in those events and those forums. Most opinion polls are off the top of people's heads in terms of whether they know something—a particular detail or particular fact or whether they have a particular perspective or particular preference. The point about deliberative events is making sure that

people have the basic knowledge before they make a reasoned decision. One of our problems, particularly about referendums, is raising that level of knowledge. It is interesting that, with referendums, people often use trusted information sources as a proxy. One of the problems with this referendum is that they are not really sure where those trusted information sources are.

**Q162 Lord Rennard:** There were a number of attempts at public engagement on constitutional reform issues over very many years. For example, the Jenkins Commission tried to engage with the public. The previous Government in their 13 years had various engagement ideas. There was the review of electoral system. I wonder whether you might comment on what you think of the engagement policies of the previous Government and whether they were, to be honest, of any value. Also, I would like to ask rather more about citizens' assemblies, about how you think they might be conducted, what the proper roles for them might be and whether or not they might be particularly appropriate for issues of constitutional reform. I have seen citizens' assemblies effectively set up as deliberative opinion polls to try to work out what might work at elections. They have been very good at focusing on what eventually happened, as opposed to snapshots. I wonder whether they are particularly appropriate for constitutional reform issues. Professor Smith began by saying that constitutional reform issues were about changing the role of rulers and the ruled. I wonder whether citizens' assemblies might be a way in which the ruled set the rules themselves and avoid the problem we have with changing anything in the constitution, where the rulers have a vested interest, set the rules for themselves and decide how any of the changes to those rules might be made. Are citizens' assemblies particularly valid for constitutional reform? Exactly how could they be structured, and covering what sorts of subjects?

**Professor Graham Smith:** Small question! One of the problems with the previous initiatives you alluded to is that the public consultation processes were poorly constructed. It was more a case of a call for evidence rather than trying to bring a group of citizens into the process, or a wider public communication and education engagement. In the same way that you find engagement around most policy issues, they just are not very attractive for people to engage with.

I am not suggesting that citizens' assemblies are a panacea for every issue with the constitution, but it is a particularly interesting model. It works very well when you are trying to change something like an electoral system, when there are really clear choices about what you are going to do. Actually, I could see it work for a question like, "What should a Bill of Rights look like?", because there are so many different aspects to a Bill of Rights. It works very well with specific questions such as, "Are we going to change the electoral system to this?". It is harder when it is a more general thing.

Saying that, I can imagine a citizens' assembly looking at different aspects of a Bill of Rights, particularly those areas in which there are big disagreements, and being able to inform the process. For example, after a period of learning and discussion the big thing is always economic and social rights and demonstrating how people's opinions have changed after learning about what the implications of those rights would be. I can see an important role for that kind of body. This is exactly about what you are saying: drawing citizens from their ordinary lives and giving them that almost legislative opportunity to be educated, to learn about the issue and to be able to say in an informed way what the relationship between the rulers and the ruled is.

Although I doubt there would be the political will for it, you could imagine a situation in which the decision of an assembly was the decision. That is not what they decided in British Columbia; they decided that they needed a binding referendum. But you could imagine a

situation in which that was the case, and they would then be the rulers—the legislators—at that point. I do not think that anyone is going to suggest moving that far.

**Q163 Lord Rennard:** I think probably not. Will you say more about how they might be conducted? For example, I have seen deliberative polls conducted by people such as Frank Luntz in the states in which they say, “Right, we want to get 400 people representative of the United States”. They will pay their travel and put them up in a very nice hotel from Friday to Sunday, and subject them over three days to some impartial advice from academic experts and the antagonists on different sides of an argument. Over the course of a Friday to a Sunday, they will engage a representative group of people in well thought-out presentations in which they consider the issue. Of course, they ask them their views on the Friday and on the Sunday. On the Sunday—when they have done this in presidential elections—they have invariably come out with the winners in the elections in almost exactly the right proportions. I wonder whether that might be the sort of way in which you could address some of these sorts of issues that might be pertinent to citizens’ assemblies, and then have a clearer recommendation, and reasons, to put to people in a referendum or just to Parliament.

**Professor Graham Smith:** I agree. What you have described is the deliberative poll that Professor Coleman was mentioning earlier. I worry about the two or three days when you are talking about a constitutional issue. Particularly when you are talking about a new electoral system, there is a lot for people to learn to really get into the detail of that. On constitutional issues, not on other issues, you probably need more time than those two or three days. I also like what they did in British Columbia, because they crafted a decision. They did not just do private voting. Well, they voted on particular options, but they were moving towards a decision rather than people’s preferences across a whole series of different issues. The point about a deliberative opinion is that you ask people about a whole



series of things—20, 30, 40 questions—whereas, with constitutional issues, it will be specific issues. People should spend more time on it; they should be crafting those decisions more carefully. So although I have great respect for Fishkin's model, I think that two or three days for constitutional issues are not enough.

**Professor Stephen Coleman:** My worry goes just a little bit further, which is that these things tend to be one-off experiments. That worries me. We need to try as far as we can to establish some kind of process and space that becomes trusted over time for these sorts of things to happen. We have been designing experimental sites for deliberation for a long time. One of the things that we have not built into the evaluation of them is that few things are going to work very well when you do them the first time, particularly if, every time you do them, it the first time for another thing. One of the things that I would like to offer as a recommendation is that, whatever one wants to think about public engagement, give it some time, let it develop and recognise that there has to be a learning process, just as there does with any kind of deliberative process—even with this institution, when it first started.

**Q164 Lord Hart of Chilton:** So is House of Lords reform a candidate for such an operation?

**Professor Stephen Coleman:** I do not see why not.

**Q165 The Chairman:** Could you propose a particular method, one of the ones you have talked about, where House of Lords reform could be appropriately discussed?

**Professor Stephen Coleman:** I think that whatever happens should have an online as well as an offline component. It should go on over a period of weeks rather than days and should be at least semi-institutionalised in the sense that if it is done one way in one constitutional reform, it will be repeated over two or three other constitutional reforms to see what the pattern of behaviour within it is. A combination of what have been the two main areas of

our discussion today—the British Columbia model of the citizens’ assembly and the deliberative online model—is probably the best candidate for this.

**Professor Graham Smith:** If politicians and decision makers knew that they were going to have to go through a process where constitutional reform would be put forward to an assembly and to public deliberation online, it would change the way they thought and stop them rushing into decisions because of the implications of that process. I am not thinking of the conservative point. I am thinking that we would have more informed policy.

**The Chairman:** I have Lord Rodgers, Lord Powell, Lord Shaw and Lord Pannick all wanting to make points, and I recognise that we are running a little short of time. Lord Rodgers.

**Q166 Lord Rodgers of Quarry Bank:** Reform of the House of Lords has been the subject of debate for the past 14 years, at least since 1997, but when it comes to manifestos, it has a very low level of priority. You can reach one of two conclusions—that the public are bored, and will remain bored, and it should not be treated as a priority; or alternatively, that the process pointing in that direction has been inadequate. Could you tell me which of those it is? If the process has been inadequate—after all, a new draft bill is coming forward—what would your advice be? What should be done now to ensure the degree of public engagement to complete the final decision if there were such a final decision on the matter?

**Professor Graham Smith:** I think House of Lords reform is a perfect example of something you could do a citizens’ assembly on. It is like electoral systems. Most people are not that interested in electoral systems—it is a shock to us all, but it is true—but they are interested when they learn about them and they know that they will have an effect on the final decision. It is a point that we have already made: people are politically active in relation to the institutions that surround them. If you create an opportunity, such as a citizens’ assembly, to

look at something like House of Lords reform, you take away the problem we have at the moment which is of different political parties trying to get the House of Lords reform that would suit them or their supporters. You would get much more interesting proposals coming out of something like an assembly and, potentially, an online deliberative exercise that ran alongside that.

**Q167 Lord Shaw of Northstead:** So the question is: should we pack up or should we try to find through public engagement a higher level of involvement?

**Professor Graham Smith:** It is interesting. When you talk about a higher level of involvement, it can be difficult; you could be talking about mass participation and everyone knowing about it or, with an assembly, about taking a group of citizens out of the populace and giving them a particularly privileged position. On something like House of Lords reform or electoral reform, particularly in the agenda-setting phase regarding what should be taken forward, you are generally going to have to focus on the second option, focusing on groups of people who are well informed, rather than thinking that you can get the massed public all up to the level of understanding this. The latter is not relevant here.

**Q168 Lord Powell of Bayswater:** I wanted to come back to your answers to Lord Rennard. Your enthusiasm for preselected audiences puts an awful lot of power in the hands of the selectors. As academics you are of course entirely pure and scientific, but this would probably fall into the hands of less scrupulous people. It takes you dangerously close to the techniques of non-democratic societies.

**Professor Stephen Coleman:** I do not think that random selection is quite the same thing as preselection by an authority.

**Lord Powell of Bayswater:** It is quite close.

**Professor Stephen Coleman:** Only in the sense that random selection is exactly what it says. One cannot actually determine who people are going to be, except something like a

picture of the public. In a sense, it is a microcosm—a shrinkage of the public. It is an attempt to imagine the public being in one room. It is a group of people acting as if they were the public, if the public had access to the kind of information that this group of people has. In terms of their particular characteristics—their political persuasion, for example—the selection would have no say whatsoever in determining that particular shape. I do not see that as being a problem.

I also do not see random selection as the only way of involving people, which is why the online element is very important. To come back to the current referendum, and the campaign is concluding as we speak, there has been an enormous amount of online discussion. One might argue that the sophistication of discussion online has been far better than that in the mass media, because the discussion online—in some quite unlikely places, actually—has very often surrounded matters of quite sophisticated principle. I would not want to rule that discussion out of the process that those people want to be part of.

**Professor Graham Smith:** I remind everyone that random selection was the democratic principle. That was how Athenians made their decisions. In this idea of democracy that we hold on to, the primary selection mechanism was a form of random selection. It is easy to have independent oversight of that process and ensure that you do not have—

**Lord Powell of Bayswater:** Also, if you remember some of the limitations of Athenian democracy—

**Professor Graham Smith:** There were some limitations, yes. And we have some limitations of our own.

**The Chairman:** It is the basis of the jury system.

**Professor Graham Smith:** Yes.

**Q169 Lord Shaw of Northstead:** Having listened to all the discussions, and realising that it is important that we continue always to have them, it seems to me that at the end of the day the best policy at the moment is to leave things as they are. Would you agree?

**Professor Graham Smith:** I would like to go through a process of public engagement to see whether that was the case.

**The Chairman:** Is this a point in general, Lord Shaw, or are we slipping into talking about House of Lords reform, which we were just talking about?

**Lord Shaw of Northstead:** I was speaking in general terms.

**Q170 Lord Pannick:** I just wanted to pick you up on this question of random selection. I have no objection to random selection, but I am concerned by Professor Smith saying that even two or three days may not be enough. How can it be random when the only people who will attend the deliberative assembly are those who are sufficiently interested in politics to want to devote that amount of time to the exercise and those who have that amount of time? Most people have other preoccupations. They earn a living, they have families—how can it be random in those circumstances?

**Professor Graham Smith:** I think you would be very surprised if you looked at the deliberative processes about the extent to which the power of an invitation changes the dynamics of whether people engage. Something else to mention which we have not mentioned is that people are generally paid an honorarium for engaging and making sure that they have childcare and so on. That sort of effort is put into it. You choose your random selection and then work out how you can enable that person to attend. The power of the ask—of actually inviting somebody—is quite strong. You are right in that people can turn down the invitation, and it is the case that most selections for deliberative polls and so on are, as I have said before, slightly more of the politically interested—but only just. It is not that significant.

**Q171 Lord Pannick:** This is based on Canadian and American—

**Professor Graham Smith:** And British, in terms of citizens' juries. Lots of experiments with citizens' juries were run under the Labour Administration, although some of them should not have been called that because they did not use the right techniques, and so on. I myself am quite surprised that you can generate a sample of people who want to engage in these intensive processes and who, in pretty much all characteristics, resemble the general population. But you do have to put a lot of effort into it; it is not cheap.

**Q172 The Chairman:** This is a very important point. It is preferable to work, frankly, if you are being paid an honorarium and your childcare is taken care of.

**Lord Pannick:** You may not be able to escape your work.

**The Chairman:** No, you may have major legal responsibilities. But that point that you have just mentioned about the degree of resource is crucial, and not just financial and administrative resource but real, driving, political—with a small “p”—resource.

**Professor Graham Smith:** There are two things there. One is to make sure that you have very good people employed to design these things. Very often the people who are being asked to do this are not that au fait with participation exercises. Secondly, there is the political will. There is no point in doing it if you are not really that bothered. The worst consultation and engagement exercises are those ones that are done in a half-hearted manner, because not only are they not really trying to affect and have an input on the decision, but you will cause a degree of disengagement in the citizens afterwards if they have actually given up their time. One of the worst things that I see is when you have a consultation exercise—there are so many examples of this—and cannot show any relationship between the consultation exercise and the final decision, even if it is to mention the consultation exercise. I think that people are doing it just because you are supposed to do it, and that is generally a problem.

**Q173 The Chairman:** Do you have any sense at all that there is a greater movement towards genuine exercises of this kind in the political establishment in this country? This is in a way a difficult question to ask you to make a judgment on.

**Professor Graham Smith:** Right at this present moment?

**The Chairman:** Yes.

**Professor Graham Smith:** One of the problems—and I think that it was unintentional, as I do not have enough evidence to suggest that it was not—is that because the Conservative-Liberal Democrat Administration have tended to focus on the communication budgets of departments, and so on, particularly government engagement, they are not doing that much engagement, because those were the budgets that were being used. In that sense, de facto, with the cuts in departments and local authorities, that is one of the first things that is going to give. Do I think that that represents a lack of political will to engage? I am not sure that that is the case; I think that it is an unintended consequence of the cuts, because it is an easy thing to cut. So the jury is out on that one.

**Q174 The Chairman:** Because politically—or superficially—it should go with the grain of all the rhetoric about the big society and citizens' engagement, et cetera. Professor Coleman, do you have a view on that?

**Professor Stephen Coleman:** Both of the parties in government spoke in terms of very great changes that they intended to bring about in the creation of policy. In the case of the Conservative Party, those were largely based around a concept called the wisdom of the crowd: the idea that one would be crowd-sourcing by going out to groups of people to find out what they think. Indeed, at the time of the first Budget in this Government, there was something called the spending challenge which invited people to submit ideas for Budget proposals. The problem is that none of the major Budget proposals that were actually

introduced were ever submitted to the spending challenge, while all of those that were submitted to the spending challenge did not end up being introduced.

At the same time, the junior partner of the coalition, as it were, spoke in terms of the biggest change in democracy in Britain since 1832—an outlandish and ambitious proposal. For the reasons that Professor Smith has given, these things have not quite happened, particularly in local government. At local government level a few years ago, everybody was working very hard to try to increase legitimacy by getting the public involved. Those tend to be the first budgets to be cut, for understandable reasons. Again, there is a strong push from the European Commission for legislation and policy-making at every level to go through consultation processes.

Professor Smith is right again on a key point, which is that whenever consultation or public engagement is introduced as an add-on—something which one calls in a consultancy company to organise at the last minute, usually in the cheapest possible way—it does not end up being done properly. Going back to the kind of recommendations that I think you were seeking from us in terms of constitutional reform, if there is to be any kind of commitment to public engagement at all it has to be brought in at the very beginning of the process, not as something that is either, at best, an add-on or, at worst, a gimmick towards the end of it.

**Q175 Lord Shaw of Northstead:** Yes, but arising out of that, if you had this consultation to set up that system, the report would go back to Parliament and Parliament would still retain the final power. Would that be it and therefore what really is the purpose of it all?

**Professor Stephen Coleman:** Of Parliament or of the consultation? They both have the same purpose; they are both expressions of a certain kind of sovereignty. It is absolutely right that Parliament should have the final word on issues of legislation. It is important,



however, that Parliament is advised not only by the expertise but the experience of the broadest range of people who are going to be affected by the policies upon which it is deliberating. This is, in a sense, a dual process of deliberation in which high-level deliberation over a long period takes place in Parliament—through, for example, pre-legislative and post-legislative scrutiny of policies—but also in which the representative and accountability functions of Parliament are carried out in a more sophisticated and sensitive way, by hearing directly the thoughtful voices of citizens.

**The Chairman:** That is a very good summary, if I may say so. Professor Coleman, thank you. Does any member of the committee have a further point they would wish to make? That has been enormously helpful and, indeed, practical, which has been our aim for this morning, so thank you both very much indeed for coming. If you have further thoughts, please do not hesitate to provide us with them because we are only now in the process of finishing our oral evidence on this and we will then take some time to put together our report. Thank you both very much indeed.